

PATENT  
Attorney Docket No. 101.0023-04000  
Customer No. 22882  
Via Express Mail Label No. ET747368123US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Gary Karlin Michelson, M.D.

Serial No.: 08/354,450

Filed: December 12, 1994

For: DEVICE FOR ARTHROSCOPIC  
MENISCAL REPAIR

Group Art Unit: 3301

Examiner: D. DeMille

#28

Office of Petitions  
Assistant Commissioner for Patents  
Box DAC  
Washington, D.C. 20231

RECEIVED

JUL 29 2002

OFFICE OF PETITIONS

Sir:

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT  
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

Applicant hereby petitions for revival of this application

1. Petition Fee

☒ Small entity – fee \$640.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee \$\_\_\_\_\_ (37 CFR 1.17(m)).

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of an Amendment After Final and Appeal Brief (in triplicate) with Appendix, Exhibit A, and fee of \$160.00:

☐ has been filed previously on \_\_\_\_\_.

☒ is enclosed herewith.

B. The issue fee of \$\_\_\_\_\_:

☐ has been paid previously on \_\_\_\_\_.

☐ is enclosed herewith.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☒ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d) of \$55.00 for a small entity or \$\_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith.

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

If there are any other fees due in connection with the filing of this response, including any fees required for an extension of time under 37 CFR § 1.136, such an extension is requested, and the Commissioner is authorized to charge any related fees to our Deposit Account No. 50-1066.

Respectfully submitted,

MARTIN & FERRARO, LLP

Dated: 7-22-02

By: 

Amedeo F. Ferraro  
Registration No. 37,129  
Attorney for Applicant

14500 Avion Parkway, Suite 300  
Chantilly, VA 20151-1101  
Telephone: (703) 679-9300  
Facsimile: (703) 679-9303

PATENT

Attorney Docket No. 101.0023-04000

Customer No. 22882

Via Express Mail Label No. ET747368123US



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: )

Gary Karlin Michelson, M.D. )

Serial No.: 08/354,450 )

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Assistant Commissioner for Patents  
Box DAC  
Washington, D.C. 20231

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JUL 29 2002

OFFICE OF PETITIONS

Sir:

**STATEMENT IN SUPPORT OF PETITION TO REVIVE UNINTENTIONALLY  
ABANDONED APPLICATION UNDER 37 C.F.R. § 1.137(b)(3)**

1. I, Amedeo F. Ferraro, declare that I am an attorney of record herein and make the following statements in support of the Petition to Revive this application.

2. I am one of applicant's representatives responsible for the prosecution of this application and have been involved with the application during the entire period of delay.

**Custody of the Files**

3. From October 1992 through December 1999, I was an associate with the Law Offices of Lewis Anten, P.C. (the "Anten firm") a three person firm having two partners and an associate.

4. My duties and responsibilities at the Anten firm included the prosecution of this application and other patent applications by Gary K. Michleson, M.D. (the "Applicant"). I also was involved with docketing of patent related matters.

5. In January 1999, the Anten firm combined its practice with Loeb & Loeb LLP (the "Loeb firm"). The Anten firm transferred its files for patent applications and patents to the Loeb firm, including its files wherein Applicant is a named inventor ("Applicant's Files").

6. From January 1999 through August 1999, I was an associate with the Loeb firm. My duties and responsibilities at the Loeb firm included the prosecution of all of Applicant's patent applications.

7. In September 1999, I joined the firm of Martin & Ferraro, LLP (the "Martin firm"). Applicant's files were transferred from the Loeb firm to the Martin firm shortly thereafter.

8. From September 1999 to the present I have been a partner in the Martin firm. My duties and responsibilities at the Martin firm include the prosecution of all of Applicant's applications.

#### **Prosecution History**

9. This application is a continuation of application serial no. 08/210,653 filed March 10, 1994, which is a continuation of application serial no. 07/965,069 filed October 22, 1992, which is a continuation of application serial no. 07/604,094 filed October 29, 1990, which is a continuation of application serial no. 07/279,978 filed December 5, 1988 (hereinafter collectively referred to as the "Related Applications").

10. On March 4, 1996, a Final Office Action was mailed by the PTO to the Anten firm, a copy of which is attached hereto as Exhibit A.

11. On August 5, 1996, a Notice of Appeal was filed in response to the Final Action, a copy of which is attached hereto as Exhibit B.

12. On December 3, 1996, a personal interview with the Examiner was conducted by Lewis Anten a partner of the Anten firm, another one of Applicant's representatives at the time. A copy of the Examiner Interview Summary Record is attached hereto as Exhibit C.

13. During the interview, the Examiner's rejection of the claims was discussed and an agreement was reached with the Examiner that claim 21 defined over the Bays et al. reference.

14. On March 19, 1997, the Examiner issued a Notice of Abandonment due to Applicant's failure to respond to the Office Action dated March 4, 1996. There is no record of the Anten firm having received the Notice of Abandonment. A copy of the Notice of Abandonment is attached hereto as Exhibit D.

### **The Events**

15. In December 1996, Mr. Anten informed me that he had an interview with the Examiner and reached an agreement with the Examiner.

16. At that time, it was my understanding from my discussions with Mr. Anten that since he conducted the interview with the Examiner, he also would prepare and file an appropriate reply to the outstanding Final Action.

17. It was my understanding that an appropriate reply to the Final Action had been filed by Mr. Anten and that we were awaiting further action from the PTO.

18. At that time, I was not aware that the application had become abandoned for failure to reply to the Final Action.

19. There was no indication on the docket of the Anten firm that a reply to the Final Action was still outstanding.

20. The lack of any indication to take action on the Anten docket for this case did not appear to be unusual to me because it was consistent with my understanding at the time that an appropriate reply to the outstanding Final Action had been filed and that no action was due on the part of the Anten firm.

#### **The Anten Firm Docketing System**

21. The docket at the Anten firm was a manual system wherein new dates were handwritten by an attorney directly on a monthly print out of the docket and completed actions were deleted by striking out text to be deleted from the next printout of the docket.

22. Actions not completed on the date indicated on the docket were carried over to the same day of the following month until the action was completed.

23. The handwritten entries made by an attorney were subsequently entered by a legal assistant in charge of revising and word-processing the docket.

24. A new printout of the docket was printed each month.

25. The docket system at the Anten firm was not a computerized system where dates are automatically calculated from a triggering event, such as the mailing date of an office action.

26. After January 5, 1997, there was no notice on the docket to reply to the outstanding Final Action because the entry had not been carried over to the next month.

27. In this case, because the action due on January 5, 1997 had not been completed, a notice should have appeared on February 5, 1997 indicating that an action

was still due. However, there was no such notice on February 5, 1997 on the docket of the Anten firm. A copy of the relevant portion of the docket of the Anten firm showing actions due during the period of February 1 through February 9, 1997 is attached hereto as Exhibit E.

28. A docketing error occurred in that the January 5, 1997 entry was not carried over to the following month on the docket.

29. If a Notice of Abandonment had been received in this Application, in accordance with office procedure of the Anten firm a request to withdraw abandonment would have been filed.

30. The Anten firm did not have a procedure to conduct a check of cases awaiting action from the PTO. Accordingly, the abandoned status of the application was not discovered.

### **The Moves**

31. In January 1999, the Applicant's files along with several thousand other files were transferred to the Loeb firm when the Anten firm combined its practice with the Loeb firm.

32. Based on the information provided to me at the time of the transfer, it was my understanding that the Loeb firm had assigned file numbers and had entered Applicant's files into its computerized docketing system.

33. In September 1999, Applicant's files were transferred to the Martin firm. The Martin firm has offices in two locations, California and Virginia. To the extent possible, duplicate sets of files are maintained at both locations.

34. During the transfer of Applicant's files to the Martin firm, the Loeb firm provided a list of Applicant's files that were being transferred. Over forty boxes of files were transferred containing hundreds of Applicant's files.

35. During the transfer of Applicant's files to the Martin firm, the Loeb firm also provided a copy of its electronic docketing database for Applicant's files.

36. The Martin firm utilized the copy of the electronic database provided by the Loeb firm to initially set up its computerized docketing system utilizing the same software program.

37. At that time, it was not discovered that this application was not included in the electronic database for the docket provided by the Loeb firm.

38. The Martin firm also created a client matter chart based on a list of files provided by the Loeb firm.

39. The list of files provided by the Loeb firm indicated that the status of this application was "pending", a copy of the relevant portion of the list of files provided by the Loeb firm is attached as Exhibit F.

40. At that time of the transfer, there was no reason to believe that the physical files transferred from the Loeb firm to the Martin firm did not include all the files identified on the list of files provided by Loeb.

#### **Discovery of the Abandonment of the Application**

41. In the fall of 1999, after the move to the Martin firm, the Applicant made an inquiry to me regarding the status of this application. To determine the status, I checked the Martin firm's client matter chart on our computer database. The status of the application on our client matter chart was "Pending" and I informed the Applicant

accordingly. A copy of the relevant portion of the Martin firm's client matter chart is attached hereto as Exhibit G.

42. The client matter chart of the Martin firm is updated regularly on an ongoing basis as actions are received from the PTO.

43. In response to a subsequent inquiry by Applicant as to the status of this application, in addition to checking the Martin firm's client matter chart, I searched for the file folder for this application to review the file history and to contact the Examiner to discuss the status of the case.

44. After an extensive search of our offices, it was discovered that the file for this application was not in either of our firm's locations. The only files we had in our firm were for the four prior applications to which this application claims priority.

45. I contacted the Loeb firm to find out if they had any of Applicant's files. The Loeb firm indicated that they did not.

46. As of this date, the file for this application remains missing.

47. After obtaining a copy of the official file history, I discovered that the application was abandoned.

48. The applicant informed me that it was not his intention to abandon the application and that he believed that the application was pending awaiting a decision on appeal.

49. Applicant instructed me to take the necessary steps to revive this application.

#### **Procedural Changes Implemented To Prevent Reoccurrence**

50. The Martin firm utilizes a computerized docketing system that automatically generates due dates based on the mailing date of an office action.

51. The action dates and subsequent reminders are deleted only after an entry has been made indicating that the appropriate action has been completed.
52. The computerized docketing system automatically generates reminders to submit a status inquiry for applications wherein an action is not received from the PTO in a predetermined period of time.
53. The Martin firm has undertaken a physical inventory of all files in both of its office locations.
54. The inventory of files has been crosschecked with the computerized docketing system to confirm that all files are accounted for and are being tracked by the docketing software.
55. A status inquiry has been sent out for pending applications wherein no action has been received within a certain time period.
56. The delay in responding to the Final Action was unintentional. At no time was there any intention to abandon this application. Therefore, together with this Petition is being submitted an Appeal Brief, a proposed Reply to the Final Action, Terminal Disclaimer, and the proper petition fee under 37 C.F.R. § 1.129.

Respectfully Submitted,

Dated: 7-22-02

  
Amedeo E. Ferraro  
Registration No. 37,129  
Attorney for Applicant

14500 Avion Parkway  
Chantilly, VA 20151-1101  
Telephone: (703) 679-9300  
Facsimile: (703) 679-9303



**UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/354,450 12/12/94 MICHELSON

G P10926V

EXAMINER

F3M1/0304

LEWIS ANTEN  
THE LAW OFFICES OF LEWIS ANTEN  
16820 VENTURA BLVD SUITE 411  
ENCINO CA 91436

ART UNIT	PAPER NUMBER
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3301

DATE MAILED:

03/04/96

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☒ Responsive to communication filed on 10-30-95 ☒ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), \_\_\_\_\_ days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

**Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:**

- |   |  |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892.        | 2. <input type="checkbox"/> Notice re Patent Drawing, PTO-848.                   |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449.             | 4. <input type="checkbox"/> Notice of Informal Patent Application, Form PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> _____  |

**Part II SUMMARY OF ACTION**

1. ☒ Claims 19-24, 26-28 are pending in the application.  
Of the above, claims \_\_\_\_\_ are withdrawn from consideration.
2. ☒ Claims 25 have been cancelled.
3. ☐ Claims \_\_\_\_\_ are allowed.
4. ☒ Claims 19-24, 26-28 are rejected.
5. ☐ Claims \_\_\_\_\_ are objected to.
6. ☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable. ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-848).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_, has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed on \_\_\_\_\_, has been ☐ approved. ☐ disapproved (see explanation).
12. ☐ Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received. ☐ not been received  
☐ been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1835 C.D. 11; 453 O.G. 213.
14. ☐ Other

EXAMINER'S ACTION

Serial Number: 08/354,450

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Art Unit: 3301

### *Specification*

1. The following is a quotation of the first paragraph of 35 U.S.C. § 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The specification is objected to under 35 U.S.C. § 112, first paragraph, as the specification, as originally filed, does not provide support for the invention as now claimed. The specification does not provide support for the height of the projection being greater than the largest dimension of the flexible rear member. There is nothing in the specification which suggests that the distance that the projection extends from the shaft is greater than the diameter or the width of this rear member. The examiner understands the width to be the same as the diameter for the word width has not been defined in the specification. However, the specification does support the limitation that the distance from the top of the projection to the central axis of the shaft is greater than the diameter of the head (said another way, the sum of the radius of the shaft and the height of the projections is greater than the radius of the head). If applicant is attempting to claim the latter

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limitation, the combined value of shaft radius and projection height, then applicant should amend the claims so that the relationship is clear.

Also, the limitations discussing the spacing of the projections relative to their height is considered new matter. There is nothing in the specification which fairly suggests the relationship that applicant is attempting to claim. The drawings are the only things that could be pointed to for support. However, the drawings do not support applicant's limitations for the distances are not clearly shown in the specification. Also, the drawings can not be used to support such a dimension for applicant's figures are not drawn to scale.

***Claim Rejections - 35 USC § 112***

2. Claims 19-24 are rejected under 35 U.S.C. § 112, first paragraph, for the reasons set forth in the objection to the specification.

3. Claims 19-27 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 19 is rejected for the term width has not been defined in the specification. Where is the width dimension measured from? Is the width the same as the diameter?

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Art Unit: 3301

Claim 24 is rejected for what applicant is attempting to claim is still unclear. Claim 24 is rejected for it is unclear how only two apexes are in the same plane when each horizontal plane includes four projections which are spaced about the rivet's central axis.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

5. Claims 19, 22, and 26-28 are rejected under 35 U.S.C. § 103 as being unpatentable over Warren. Warren discloses a surgical rivet. He discloses that the rivet has a hollow shaft and a number of projections extending from said shaft. He also discloses that the rivet is made of a biodegradable material.

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However, Warren does not discuss the flexibility of its rounded head.

It would have been obvious to modify the rivet of Warren so that its head was flexible enough to conform to the angle of the tissue. This modification would have been obvious for one of ordinary skill would have the rivet in flush contact with the tissue so that a smooth transfer surface would be formed, thereby insuring that nothing would be caught on the extending rivet head and damaged.

6. Claims 20 and 21 are rejected under 35 U.S.C. § 103 as being unpatentable over Warren in view of Bays et al.

Warren discloses the rivet as discussed above. He does not disclose the driver as claimed.

Bays et al (Bays) teach the driver as discussed in the previous office action.

It would have been obvious to modify the rivet of Warren with the driver as taught by Bays. This would have been obvious for Bays teaches that his driving means allows the user to apply the force necessary to correctly place the rivet within the tissue. Applicant is to note that the lengths of his driver's elements are considered to an obvious choices of experimentation and design.

7. Claims 23 and 24 are rejected under 35 U.S.C. § 103 as being unpatentable over Warren in view of Duncan.

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Warren discloses the rivet as discussed above. He does not disclose the radially staggered projections as claimed.

Duncan teaches tissue rivets. He discloses that his rivets have radially staggered projections.

It would have been obvious to modify the rivet of Warren with the radially spaced projections as taught by Duncan for Duncan teaches that by staggering the projections, the rivet will be better secured within the body.

#### *Response to Amendment*

8. Applicant's arguments filed October 30, 1995 have been fully considered but they are not deemed to be persuasive. The examiner submits that the argument suggesting that Warren does not teach flexible projections is without merit for in column 7, lines 17-21, he discusses ways in which the projections can be even more flexible than originally intended.

The examiner submits that the material used by Warren is flexible enough to shape itself to a hole's angle of entry for Warren teaches that his rivet is made from the same material that applicant uses for his rivet, polyglycolic acid or polyglycolide. The examiner also submits that making a head flexible enough to contour to the surface of an entry site would have been obvious to one of ordinary skill for the contouring head would prevent injury within the body.

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Art Unit: 3301

The examiner submits that the modification of the Bays et al driver so that the angle of attack was the same for the driver and the rivet would have been obvious for a constant angle provides smooth entry into the body, thereby reducing the trauma experienced by the body.

In response to applicant's remarks that the Duncan reference does not teach staggered projections, the examiner submits that said projections are taught. Duncan teaches that his projections are staggered about the longitudinal axis of the rivet, thus, staggered, longitudinal projections. This modification is not hindsight for Duncan teaches that his spaced projections securely retain the tissue rivet within the body.

Applicant's amendment necessitated the new grounds of rejection. Accordingly, **THIS ACTION IS MADE FINAL**. See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

Serial Number: 08/354,450

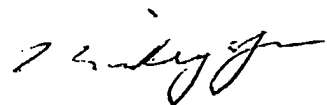
-8-

Art Unit: 3301

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian E. Hanlon whose telephone number is (703) 308-2678.

beh  
March 4, 1996



MICKEY YU  
PRIMARY EXAMINER  
ART UNIT 331

Initial Review  
BOX A

Notice of Appeal from the Examiner to the Board of Patent Appeals and Interferences

Attorney's Docket No.

P-10936V



IN RE APPLICATION OF

MICHELSON, Gary Karlin, M.D.

SERIAL NUMBER

FILED

08/354,450

December 12, 1995

FOR

ARTHROSCOPIC MENISCAL REPAIR

GRP. ART UNIT

EXAMINER

3301

Hanlon, B.

"Express Mail"

Mailing Label No. EM368670877US

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10 on the date indicated above and is addressed to:

Box AP  
Assistant Commissioner For Patents  
Washington, D.C. 20231.

CERTIFICATE OF EXPRESS MAILING

Date of Deposit: August 5, 1996

Signed:

Typed or

Printed Name Amadeo Ferraro

Date:

August 5, 1996

RECEIVED

AUG 9 1996

GROUP 300

Applicant hereby appeals to the Board of Appeals from the decision dated March 4, 1996, of the Examiner rejecting claims 19-24 and 26-28.

The item(s) marked below are appropriate:

1. XXX Appeal fee (37 C.F.R. § 17(e))

<u>          </u>	other than a small entity	fee	\$290.00
<u>XXX</u>	small entity	fee	\$145.00
<u>          </u>	verified statement attached		
<u>XXX</u>	verified statement filed		
2. XXX A petition and fee for an extension of time for reply to the rejection is attached.  
Extension fee (37 C.F.R. §§ 1.17 (a) - (d))

<u>          </u>	other than a small entity		
<u>          </u>	\$110.00	<u>          </u>	\$380.00
<u>          </u>	\$900.00	<u>          </u>	\$1,400.00
<u>XXX</u>	small entity		
<u>          </u>	verified statement attached		
<u>          </u>	verified statement filed		
<u>          </u>	\$55.00	<u>XXX</u>	\$190.00
<u>          </u>	\$450.00	<u>          </u>	\$700.00
3. XXX A check in the amount of \$145.00 is attached. This amount is believed to be correct; however, the Commissioner is hereby authorized to charge any deficiency or credit any overpayment of the following fees to Deposit Account No. 01-2138 under the name Lewis Anten, a professional corporation. Two duplicate copies of this Notice of Appeal is attached.  
XXX Any appeal fees under 37 C.F.R. § 17(e).

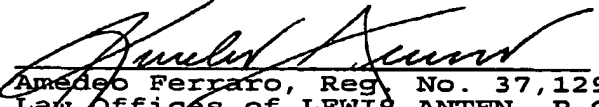
XXX

extension fees under .R. §§ 1.17(a) -  
(d).

4. \_\_\_\_\_ Please charge my Deposit Account No. 01-2138 under the name of Lewis Anten, a professional corporation, in the amount of \$ \_\_\_\_\_. Two duplicate copies of this Notice are attached.

8-5-96

Date

  
Amedeo Ferraro, Reg. No. 37,129  
Law Offices of LEWIS ANTEN, P.C.  
Attorneys For Applicant  
16830 Ventura Boulevard, Suite 411  
Encino, California 91436  
Voice (818) 501-3535  
Fax (818) 501-3618

354-450



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
354450			

EXAMINER	
ART UNIT	PAPER NUMBER
	5

DATE MAILED:

EXAMINER INTERVIEW SUMMARY RECORD

All participants (applicant, applicant's representative, PTO personnel):

(1) Lewis Anton (3) \_\_\_\_\_  
(2) Danton DeMott (4) \_\_\_\_\_

Date of interview 12/31/96

Type: ☐ Telephonic ☒ Personal (copy is given to ☐ applicant ☒ applicant's representative).

Exhibit shown or demonstration conducted: ☐ Yes ☒ No. If yes, brief description: \_\_\_\_\_

Agreement ☐ was reached with respect to some or all of the claims in question. ☒ was not reached.

Claims discussed: 19-21, 24

Identification of prior art discussed: Art of record

Description of the general nature of what was agreed to if an agreement was reached, or any other comments: Discussed 112  
problems of the claims and specification. Cannot agree on the difference  
of flexibility between the prior art and the instant invention. Agreed  
that the length of the claim 21 defines over Berg et al.

(A fuller description, if necessary, and a copy of the amendments, if available, which the examiner agreed would render the claims allowable must be attached. Also, where no copy of the amendments which would render the claims allowable is available, a summary thereof must be attached.)

Unless the paragraphs below have been checked to indicate to the contrary, A FORMAL WRITTEN RESPONSE TO THE LAST OFFICE ACTION IS NOT WAIVED AND MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW (e.g., Items 1-7 on the reverse side of this form). If a response to the last Office action has already been filed, then applicant is given one month from this interview date to provide a statement of the substance of the interview.

☐ It is not necessary for applicant to provide a separate record of the substance of the interview.

☐ Since the examiner's interview summary above (including any attachments) reflects a complete response to each of the objections, rejections and requirements that may be present in the last Office action, and since the claims are now allowable, this completed form is considered to fulfill the response requirements of the last Office action.

Danton DeMott  
Examiner's Signature

354470



**UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

08/354,460

12/12/94

MICHELSUN

G

P10936V

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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F3M1/0319

LEWIS ANTEN  
THE LAW OFFICES OF LEWIS ANTEN  
16830 VENTURA BLVD SUITE 411  
ENCINO CA 91436

DEMILLE, D

EXAMINER

3301

ART UNIT

REPORT NUMBER

26

DATE MAILED:

**NOTICE OF ABANDONMENT**

This application is abandoned in view of:

- ☒ Applicant's failure to timely file a proper response to the Office letter mailed on 3/4/96.
- ☐ A response (with a Certificate of Mailing or Transmission of \_\_\_\_\_) was received on \_\_\_\_\_, which is after the expiration of the period for response (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
- ☐ A proposed response was received on \_\_\_\_\_, but it does not constitute a proper response to the final rejection.
- (A proper response to a final rejection consists only of: a timely filed amendment which places the application in condition for allowance; a Notice of Appeal; or the filing of a continuing application under 37 CFR 1.62 (FWC).)
- ☒ No response has been received.
- ☐ Applicant's failure to timely pay the required issue fee within the statutory period of three months from the mailing date of the Notice of Allowance.
- ☐ The issue fee (with a Certificate of Mailing or Transmission of \_\_\_\_\_) was received on \_\_\_\_\_.
- ☐ The submitted issue fee of \$\_\_\_\_\_ is insufficient. The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_.
- ☐ The issue fee has not been received.
- ☐ Applicant's failure to timely file new formal drawings as required in the Notice of Allowability.
- ☐ Proposed new formal drawings (with a Certificate of Mailing or Transmission of \_\_\_\_\_) were received on \_\_\_\_\_.
- ☐ The proposed new formal drawings filed \_\_\_\_\_ are not acceptable.
- ☐ No proposed new formal drawings have been received.
- ☐ The express abandonment under 37 CFR 1.62(g) in favor of the FWC application filed on \_\_\_\_\_.
- ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
- ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
- ☐ The decision by the Board of Patent Appeals and Interferences rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
- ☐ The reason(s) below:

*Danton D. DeMille*  
DANTON D. DeMILLE  
PRIMARY EXAMINER  
ART UNIT 331

1/31/97 Alchemy G-12610 HECTOR -Proposed date to  
finalize Settlement  
Agreement with Nouvelle  
Images

XXX  
FEBRUARY

2/1/97 Never  
Quit T-12329 NEVER QUIT- Last day to  
file Stmt. of Use and 3rd  
Req. for Ext. to file  
Stmt. of Use due 2/1/97

2/1/97 Bell G-12497 BELL LINES - Not. of Opp.  
due

2/1/97 Auto-Shade P-12548 Sunshade Design- Resp. to  
O.A. due 11/1/96 (3 mos.  
overdue)

2/1/97 Karlin P-10796.2 & P-10796.2(a) Brazil - Surgical Chisel  
and Instrument Handle -  
Annuity due 2/1/97

2/2/97 Hon P-12400 Blood Pressure Cuff -

Resp. to O.A. due 3/2/97

2/2/97	Ziehl, Dean	G-	HAPPY PET, INC. - Reservation of Corp. Name expires
2/2/97	Karlin	P-10870.2	Canada - maint. fee due 3/2/97
2/3/97	MGM	T-12487.1(a) T-12487.1(c)	Argentina - MGM GRAND - Inst. to asso. re withdrawal of Oppositions (deadline 3/3/97)
2/3/97	Trigg	T-12180.2 & T-12493.2	Canada - WET and SPLASH LOGO - Follow up on Change of name
2/5/97	Caesars	P-12628.1	Combined Cashless - Chapter II Demand due 2/5/97

2/5/97	Caesars	T-11174	CAESARS PALACE AT SEA - Final Ltr. re Sec. 8 & 15 Decl.
2/5/97	Funrise	T-12232	METRO FORCE- Can filed Stmt. of Use and 3rd Req. For Ext. to file Stmt. of Use 6/5/97
2/5/97	Caesars	T-12735	CAESARVISION - Resp. to O.A. due
2/6/97	Caesars	T-12751 & T-12752	Greece - Check for receipt of issued Cert. of Registration
2/7/96	Funrise	T-12855	FUN FARM - Can file foreigns
2/9/97	Hon	P-10815.2	Canada - maint. fee due 3/9/97

## EXHIBIT F

No.	Country	Title of Invention	App. No. / Pat. No	Filing Date / Issue Date	U.S. Related Application(s) Date	LOEB Docket No. (L.Anten)	Owner/Assignee	Status	License Date
23.	USA	Paper Clip	07/257,849 4,949,435	10/14/88 08/21/90		8810-D7683 (P-10911)	Michelson	Issued	
24.	USA	Spinal Support Chest Bolster (Design)	07/264,683 D319,700	10/31/88 09/03/91		8810-D7684 (P-10916)	Michelson	Issued	Codman 10/22/90
25.	USA	Spinal Surgery Chest Bolster	07/268,379 4,908,892	11/07/88 03/20/90		8810-D7685 (P-10917)	Michelson	Issued	Codman 10/22/90
26.	USA	Device For Arthroscopic Meniscal Repair	07/279,978  07/604,094 07/965,069	12/05/88  10/29/90 10/22/92	  Con of 07/279,978 Con of 07/604,094	8810-D7689 (P-10936) (P-10936II) 8810-D7690 (P-10936III) 8810-D7691 (P-10936IV) 8810-D7691 (P-10936V)	Michelson  Michelson Michelson Michelson Michelson Michelson	Abandoned  Abandoned Abandoned Abandoned Abandoned Abandoned	
			08/210,653 08/354,450	03/10/94 12/12/94	Con of 07/965,069 Con of 08/210,653				
27.	USA	Flaval Separator	07/289,258 5,026,386	12/23/88 06/25/91		8810-D7692 (P-10937)	Michelson	Issued	Codman 10/22/90
28.	USA	Cannula For An Arthroscope	07/324,727 4,973,321	03/17/89 11/27/90		8810-D7696 (P-10979)	Michelson	Issued	

Title Of Invention	Serial #	Binder Tab	M&F #	Finnegan	Loeb	Anten	Issued Pend. Aband
	16MAR93 (611052) 12SEP89					Canada	
Interspace Irrigator	PCT/ US89/03860 12SEP89	2-21	101.0018-00PCT		F7678	P-10880.1 PCT	A no file
Improved Surgical Glove	07/258,552 17OCT88	2-22	101.0019-00000	6922.0001-00000		P-10890	A
Improved Surgical Glove	6,175,962 B1 23JAN01 07/919,844 26OCT92	2-22	101.0019-01000	6922.0001-01000	D7682	P10890 II	I
Surgical Glove	09/576,744 23MAY00		101.0019-02000				P
Paper Clip	4,949,435 14OCT88	2-23	101.0020-00000		D7683	P-10911	I
Spinal Support Chest Bolster (Design)	D319,700 3SEP91 (07/264,683) 31OCT88	2-24	101.0021-00000		D7684	P-10916	I
Spinal Surgery Chest Bolster	4,908,892 20MAR90 (07/268,379) 7NOV88	2-25	101.0022-00000		D7685	P-10917	I
Device for Arthroscopic Meniscal Repair	07/279,978 5DEC88	2-26	101.0023-00000		D7689	P-10936	A
Device for Arthroscopic Meniscal Repair	07/604,094	2-26	101.0023-01000			P10936 II	A
Device for Arthroscopic Meniscal Repair	07/965,069	2-26	101.0023-02000		D7690	P-10936 III	A
Device for Arthroscopic Meniscal Repair	08/210,653	2-26	101.0023-03000			P-10936 IV	A
Device for Arthroscopic Meniscal Repair	08/354,450	2-26	101.0023-04000		D7691	P-10936 V	P
Flaval Separator	5,026,386 25JUN91 (07/289,258) 23DEC88	2-27	101.0024-00000		D7692	P-10937	I
Cannula for an Arthroscope	4,973,321 27NOV90 (07/324,727) 17MAR89	2-28	101.0025-00000		D7696	P-10979	I
Instrument Handle Design	07/341,848 24APR89	2-29	101.0026-00000		D7699	P-11011	A